

In the Matter of Merchant Mariner's Document Z-81693-D2 and All Other Seaman Documents  
Issued to : MAX P.BARRETTO

Decision and Final Order of the Comandant  
United States Coast Guard

1135

MAX P. BARRETTO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 7 May 1959, and Examiner of the United States Coast Guard at Boston, Massachusetts suspended Appellant's seaman documents upon finding him guilty of misconduct. The ten specifications found proved allege offenses while Appellant was serving as an Able Seamen on the United States SS PIONEER COVE under authority of the document above described. While so serving, on or about 2 December 1958, while said vessel was at sea, Appellant wrongfully had liquor in his possession. While serving as above, Appellant did on or about 19 December 1958 while said vessel was in a foreign port fail to perform his duties by reason of being under the influence of liquor. While serving as above, he was, on or about 6 January, 1959 while said vessel was in a foreign port, absent from his duties. While serving as above, Appellant did, or about 1 January and 3 January 1959, while said vessel was in a foreign port, fail to perform his duties by reason of being under the influence of liquor. While serving as above, he was, on or about 16 January 1959, while said vessel was in a foreign port, absent from his duties without authority. While serving as above, he was, on or about 17 January 1959, while said vessel was in a foreign port, absent from his duties without authority, and upon return to the vessel did daily to perform his duties by reason of being under the influence of liquor. While serving as above, Appellant was, on or about 28 January 1959, while said vessel was in a foreign port, absent from his duties without authority. While serving as above, he did on or about 31 January 1959, while said vessel was in a foreign port, fail to perform his duties by reason of being under the influence of liquor. While serving as above, he did, on or about 6 February 1959, while said vessel was in a foreign port, fail to perform his duties by reason of being under the influence of liquor. While serving as above, Appellant was, on or about 15 March 1959, while said vessel was in a domestic port, absent from his duties without authority and upon return to said vessel did fail to perform his duties by reason of being under the influence of liquor.

At the beginning of the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant elected to waive that right and act as his own counsel. He entered a plea of guilty to the charge and each specification.

The Investigating Officer made his opening statement and introduced no evidence in view of Appellant's guilty pleas.

In defense, Appellant was given the opportunity to present material relevantly connected with each specification and to make statements in mitigation and extenuation. No oral arguments were made nor were proposed findings and conclusions submitted. The Examiner then announced the decision in which he concluded that the charge and ten specifications had been proved by plea. An order was entered suspending all documents, issued to Appellant, for a period of four months outright and six months on probation until twenty-four months after the outright suspension.

#### FINDINGS OF FACT

- (1) On the dates hereinafter referred to, Max P. Barretto, was serving as an Able Seaman aboard the SS PIONEER COVE by the authority of his aforementioned Merchant Mariner's Document No. Z-81693-D2.
- (2) On 2 December 1958 while the vessel was at sea, Barretto wrongfully had liquor in his possession.
- (3) On 19 December 1958, in a foreign port, Barretto failed to perform his duties by reason of being under the influence of liquor.
- (4) On 6 January 1959 in a foreign port, Barretto was absent from his duties without authority.
- (5) On 1 and 3 January 1959 in a foreign port, Barretto failed to perform his duties by reason of being under the influence of liquor.
- (6) On 16 January 1959 in a foreign port, Barretto was absent from his duties without authority.
- (7) On 17 January 1959 the vessel was in the port of Port Adelaide, Australia. When Barretto was called upon to turn to in order for the vessel to get underway he at first was discovered to be ashore without authority, and later when he finally returned he was too intoxicated to perform his duties.
- (8) On 28 January 1959 in a foreign Port Barretto worked until noontime, but then went ashore without authority and got drunk as a result of which he failed to turn to in the afternoon.
- (9) On 31 January 1959 the vessel was in the Port of Melbourne, Australia, and on that date Barretto was so intoxicated as to be unable to turn to in order to secure or to let go when the vessel sailed from that port.
- (10) On 6 February 1959 in a foreign port, Barretto failed to perform his duties by reason of being under the influence of liquor.
- (11) On 15 March 1959 while in the Port of Charleston, South Carolina, Barretto was absent from his duties without authority, and while ashore became so intoxicated as to fall and seriously injure

himself. As a result, on 18 March 1959, he was hospitalized until 14 April 1959.

### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the affirmance of the Examiner's order will impose hardship on Appellant and that the order is unduly harsh in view of Appellant's previous good record.

### OPINION

Since Appellant has raised no contention respecting any impropriety in finding him guilty of the ten specifications, and furthermore has fully and freely admitted his guilt in connection with each of the various offenses, it is unnecessary to discuss them further. I am fully in agreement with Examiner's opinion that Appellant's weakness for intoxicating liquor caused him to become a nuisance to his ship and shipmates. In view of the foregoing material, I am not convinced that the degree of hardship to Appellant's prior record warrant modification of the Examiner's order.

### ORDER

The order of the Examiner dated at Boston, Massachusetts on 7 May 1959, is AFFIRMED.

A.C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D.C., this 5th day of February 1960.